THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.11637 and 12166 OF 2006

07.07.2006

Between:

Sunita Prasad, D/o.P.S.Prasad
And others

… Petitioners

AND

Special Grade Dy. Collector and Revenue Divisional Officer,
Chevella Division, Ranga Reddy District
And otehrs

… Respondents

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WRIT PETITION Nos.11637 and 12166 OF 2006

COMMON ORDER:

In these two writ petitions, the petitioners are aggrieved by the proceedings vide letter Nos.C/1040/2006 and C/1487/2006 respectively dated 31.5.2006. By the said proceedings, the first respondent herein, namely, Special Grade Deputy Collector and Revenue Divisional Officer, Chevella Division, Ranga Reddy District, entertained *suo motu* appeals under section 5(5) of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity) against the mutation orders of the second respondent, namely, Mandal Revenue Officer, Serilingampally Mandal (MRO), in proceedings Nos.B/891/2005 dated 01.12.2005 and B/1130/ 2005 dated 16.2.2006, and suspended the said proceedings while ordering the enquiry on 24.6.2006. When W.P.No.11637 of 2006 was listed for preliminary hearing, this Court passed the following order in W.P.M.P.No.14465 of 2006.

> The Mandal Revenue Officer, Serilingampally (MRO) ordered mutation in favour of the petitioners in obedience to the directions issued by the Government of Andhra Pradesh vide their memo dated 05.11.2004, which was again in compliance with the final decree passed by this Court in C.A.No.799 of 1997 in C.S.No.14 of 1958. The MRO issued proceedings to that effect on 01.12.2005. Curiously, the Special Grade Deputy Collector & Revenue Divisional Officer, Chevella initiated *suo motu* enquiry under Section 5(5) of A.P. Rights in Land and Pattadar Passbooks Act, 1971 (the Act) and gave notice of enquiry scheduled on 24.6.2006. While doing so, the first respondent suspended the proceedings of the MRO dated 01.12.2005 whereby and whereunder the petitioners herein were granted mutation in their favour. *Prima facie*, the impugned order of the first respondent suffers from two infirmities. First, the jurisdiction to entertain *suo motu* appeal under Section 5(5) of the Act is doubtful. Second, when an enquiry is to be conducted – if one is permissible; there was no necessity to suspend the mutation granted to the petitioners almost 1½ year ago. Therefore, while observing that the first respondent may conduct enquiry the

result of which be subject to the orders or further orders on this application, there shall be interim suspension of the impugned order insofar as it suspends proceedings of the MRO dated 01.12.2005.

Learned Assistant Government Pleader for Revenue (General) to file counter within four weeks.

As notices supra, subsection (5) of Section 5 of the Act does not confer *suo motu* power on the Revenue Divisional Officer (RDO) to entertain an appeal against the proceedings or order of Recording Authority, namely, MRO. The impugned order/notice, therefore, suffers from initial lack of jurisdiction. For this reason alone, the same is liable to be set aside. Accordingly, the same is set aside observing that if any mistake in the record of rights is to be rectified, necessary action has to be taken under Rule 13(2) of A.P. Rights in Land and Pattadar Pass Books Rules, 1989.

Both the writ petitions are accordingly allowed. There shall be no order as to costs.

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(**V.V.S.RAO, J**)

July 07, 2006
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